

5/13/87

SB 1142  
Harris  
(Criss)

SUBJECT: Regulation of career counseling services

COMMITTEE: Labor and Employment Relations: favorable, with amendments

VOTE: 6 ayes--Criss, Roberts, Martinez, Betts, Shine  
G. Thompson

0 nays

3 absent--Hinojosa, P. Moreno, G. Thompson

SENATE VOTE: On third reading, April 6, 1987, 30 yeas, 0 nays

WITNESSES: For--None

DIGEST: SB 1142, as amended, would require owners and operators of career counseling services to obtain a certificate of authority from the Department of Labor and Standards.

Career counseling would be defined as a service for compensation designed to assist a client in the development or marketing of the client's career. The bill would not apply to persons regulated by the personnel employment services act, a government personnel service or a licensed professional counselor.

The department would not be permitted to issue a certificate of authority until the owner of a career counseling service filed a \$10,000 bond with the department. In lieu of the \$10,000 bond, the owner could deposit \$10,000 in cash for each of the owner's business locations.

A certificate of authority would be good for one year from the date of issuance and could be renewed by filing a notice containing all the information required for the original certificate of authority and accompanied by a renewal fee. Each career counseling service would also be required to file a yearly financial statement with the department.

SB 1142 would require each counseling service to adopt a consumer complaint resolution program. The service would be required respond to complaints within 48 hours. If the complaint could not be resolved, the

service would have to refer the complaint to outside arbitration. An arbitrator could recommend a pro-rata refund if it was determined that the consumer's complaint was valid. The counseling service would be required to display a notice informing clients of the telephone number of the department and that complaints could be referred to the department.

SB 1142 would require career counseling services to prove the truth of every claim they made in any literature they offered, in any medium of advertising or in any interview. The service could not offer or imply any guarantee, either in its advertising or in any client interview, that the consumer would obtain a job through the service. The service would have to provide a copy of the service contract to the client at the first interview. No contract could be signed unless the service first held at least two interviews with the client.

Career counseling services would be required to provide a copy of the written contract to the client before the contract was signed. The client could cancel the contract within four business days after the contract was signed -- each contract would have to contain a bold-faced notice of the right to cancel. The service would be required to refund all money paid by the client to the service. A client would also be permitted to cancel a contract if the client decided not to use the service or if the client determined that the service was not offering suitable services. The client would be responsible for an amount equal to the value of the services rendered by the service. The service would have 31 days to make the appropriate refund to the client.

A violation of the bill would be considered deceptive trade practice, and a public or private right or remedy authorized by the Deceptive Trade Practices-Consumer Protection Act could be used to enforce the act.

The commissioner of the Department of Labor and Standards would be required to enforce the career counseling service act, with the assistance of the attorney general, if requested. The commissioner would investigate complaints alleging violations of the act. If the commissioner determined that a violation may have occurred, the commissioner would hold a contested case hearing. If the commissioner determines that the counseling service has violated the act, the

commissioner would be permitted to issue a warning or suspend or revoke the service's certificate of authority. If the service's certificate of authority was revoked, the owner of the service could not apply for a new certificate for three years following the date of revocation. The commissioner or the attorney general would be permitted to bring an action to enjoin any violation of the act.

SUPPORTERS  
SAY:

Career counseling services are not currently regulated. With the advent of high unemployment in the 1980s, there have been a proliferation of career counseling businesses in Texas. These businesses cater to unemployed professionals looking for work. Many of those laid off by the oil industry and other professionals who had been working and out of the job market for years sought the help of these career counseling services.

The fees for these services range from about \$2,000 to \$10,000. Many people have complained that these services told them that they would get them a job and that after they paid the fee, the services did nothing for them. They did not provide the services promised, and they were unresponsive when complaints were made. SB 1142 would address these problems and would offer some protection to the unemployed job seekers using these services. The regulations would not be overly intrusive but would be sufficient both to protect the consumer from shady operators and to promote the image of career counseling services.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee amendments would permit the outside arbitrator of client's complaint against a career counseling service to recommend a refund on a pro-rata basis if it was determined that the client's complaint was valid. A counseling service would be required to give a copy of the service contract to the client at the first interview. The Notice To Client would have to inform the client that the client could register a complaint with the Texas Department of Labor and Standards and would give the department's address and phone number.